IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Suit No. 3015 of 1987

1. Colgate Palmolive Company
and another ..Plaintiffs

vs.

1.Dabur (India) Limited & anr. ...Defendants

Mr.Chitnis for plaintiffs.
Mr.Ashutosh Kane i/b Mr.H.W.Kane for defendants.

CORAM: S.C.DHARMADHIKARI J
8th October,2007

P.C.

1. The suit has been filed by the plaintiffs in this Court for the following reliefs:

> "(a) That the defendants by themselves their servants and agents be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner infringing the plaintiffs' registered trade mark no.290361 and trade mark pending registration no.434311 and/or from using inrelation to tooth power or any other product, cans bearing the colourl scheme, design or get up as per Exhibit F hereto and/or any other deceptively similar can so as to infringe the plaintiffs' registered

trade mark No.290361 and trade mark pendign registration no.434311;

(b) That the defendants by themselves their servants and agents be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner using in relation to tooth powder or any other product, cans bearing the colour scheme, design or get up as per Exhibit F hereto or any cans bearing the colour scheme, design or get up identical with or similar to the cans of Colgate Tooth Powder, being Exhibits "A" and "C" hereto, so as to pass off or enable others to pass off the Defendants' goods as and for the goods of the plaintiffs.

2. I was informed by the learned Counsel appearing for both sides that on earlier two occasions the parties had negotiated for over all settlement. My attention was also invited to the written statement which was filed containing the specific averments therein. Those averments are in the written statement and more particularly in paras 24 to 26.

3. The matter is adjourned at the request of the

parties to tender the consent terms or make appropriate statement with regard to the settlement arrived at out of Court.

4. When the matter was placed before me today, a statement is made on behalf of the learned Advocate appearing for the defendants that the defendants have stopped using the alleged design or get-up more particularly described in Exh.F to the plaint. He states that the defendants are not using the impugned design and have no desire to use the same in future.

5. In the light of this statement, Mr.Chitnis appearing for the plaintiffs states that he has instructions to withdraw the suit and accordingly seeks leave to withdraw the suit, however, with liberty to file a fresh suit in case the defendants repeat the acts as alleged in the plaint and commence user complained of. Leave granted. Suit is allowed to be withdraw and dismissed with liberty as above. Refund of court fees as per rules. No order as to costs.

6. All interim orders to stand vacated forthwith.

(S.C.DHARMADHIKARI J.)